

**TECHNICAL AMENDMENTS TO THE CLAIMS:**

Please amend Claims 1-11 as indicated hereinbelow.

Please add new Claims 12-23.

**Listing of Claims:**

1. (Currently amended) An isolated nucleic acid ~~having the sequence of~~ comprising SEQ ID NO:1.
2. (Currently amended) An isolated nucleic acid comprising a fragment of ~~the sequence of~~ SEQ ID NO:1, wherein said fragment has promoter activity.
3. (Currently amended) An isolated nucleic acid having at least 70% sequence identity to ~~the sequence of~~ SEQ ID NO:1, wherein said nucleic acid has promoter activity.
4. (Currently amended) An isolated nucleic acid having promoter activity, wherein said nucleic acid hybridizes to ~~the sequence of~~ SEQ ID NO:1 under high stringency conditions.
5. (Currently amended) A nucleic acid construct comprising ~~an~~ the isolated nucleic acid ~~having promoter activity according to~~ of any one of Claims 1-4 having promoter activity, operably linked to a heterologous nucleic acid.
6. (Currently amended) The nucleic acid construct of Claim 5, further comprising a polyadenylation site at the 3' end of the heterologous nucleic acid.

7. (Currently amended) A vector comprising ~~an~~ the isolated nucleic acid ~~according to~~ of any one of Claims 1-4 and/or a nucleic acid construct according to any one of claims 5-6.
8. (Currently amended) A plant cell comprising a the nucleic acid construct ~~according to~~ of any one of Claims 5-6.
9. (Currently amended) A transgenic plant or the progeny thereof comprising a the nucleic acid construct ~~according to any one of~~ Claims 5-6 or a plant cell according to claim 8.
10. (Currently amended) The transgenic plant of Claim 9, wherein the plant is selected from the group consisting of a monocotyledonous plant and a dicotyledonous plant.
11. (Currently amended) The transgenic plant of Claim 10, wherein the plant is a plant selected from the group consisting of cotton, rice, corn, wheat, barley, oat, rye, oil seed rape, potato, soybean, sunflower, sugar cane, sugar beet, alfalfa and banana.
12. (New) A vector comprising the nucleic acid construct of Claim 5.
13. (New) A vector comprising the nucleic acid construct of Claim 6.
14. (New) A plant cell comprising the nucleic acid construct of Claim 6.
15. (New) A transgenic plant or the progeny thereof comprising the nucleic acid construct of Claim 6.
16. (New) A transgenic plant or the progeny thereof comprising the plant cell of Claim 8.
17. (New) A transgenic plant or the progeny thereof comprising the plant cell of Claim 14.

18. (New) The transgenic plant of Claim 15, wherein the plant is selected from the group consisting of a monocotyledonous plant and a dicotyledonous plant.
19. (New) The transgenic plant of Claim 18, wherein the plant is a plant selected from the group consisting of cotton, rice, corn, wheat, barley, oat, rye, oil seed rape, potato, soybean, sunflower, sugar cane, sugar beet, alfalfa and banana.
20. (New) The transgenic plant of Claim 16, wherein the plant is selected from the group consisting of a monocotyledonous plant and a dicotyledonous plant.
21. (New) The transgenic plant of Claim 20, wherein the plant is a plant selected from the group consisting of cotton, rice, corn, wheat, barley, oat, rye, oil seed rape, potato, soybean, sunflower, sugar cane, sugar beet, alfalfa and banana.
22. (New) The transgenic plant of Claim 17, wherein the plant is selected from the group consisting of a monocotyledonous plant and a dicotyledonous plant.
23. (New) The transgenic plant of Claim 22, wherein the plant is a plant selected from the group consisting of cotton, rice, corn, wheat, barley, oat, rye, oil seed rape, potato, soybean, sunflower, sugar cane, sugar beet, alfalfa and banana.